1100. But the payment of the amount conceded to be due upon a claim, the remainder of which is in dispute, is good consideration for a release of the whole claim. *Tanner v. Merrill* (1895) 108 Mich. 58, 65 N. W. 664; *Janci v. Cerny* (1919) 287 Ill. 359, 122 N. E. 507; *contra, Demeules v. Jewel Tea Co.* (1908) 103 Minn. 150, 114 N. W. 733. Before the legal principles pertaining to compromises will apply there must be some bona fide dispute. *Silander v. Gronna* (1906) 15 N. D. 552, 108 N. W. 544; *Isaacs v. Wishnick* (1917) 136 Minn. 317, 162 N. W. 297. In the principal case there had been no dispute. It is interesting to note that in believing that the other policy was not yet cancelled, the parties made a mistake of law. Money paid under a mistake of law is said not to be recoverable under the majority rule. *Brisbane v. Dacres* (1813, C. P.) 5 Taunt. 143; *Alton v. First National Bank* (1892) 157 Mass. 341, 32 N. E. 228; *contra, Northrop v. Graves* (1849) 19 Conn. 548. But courts, as in the instant case, often fail to discuss or observe the point, and when they do, avoid what they consider an inequitable result by various expedients. For instance, by an intangible distinction money paid under a mistake of fact induced by a mistake of law can be recovered. *King v. Doolittle* (1858, Tenn.) 1 Head, 77; *Freeman v. Curtis* (1862) 51 Me. 140. In the principal case the discharge is held invalid for lack of consideration; but the decision may well be approved on the ground that the discharge was rendered invalid by the mistake, thus further supporting the existing tendency to undermine the so-called rule as to money paid by mistake of law. The following cases are in accord with the principal case. *Goodson v. National Masonic Accident Assn.* (1902) 91 Mo. App. 339; *Mintzer v. Supreme Council A. L. H.* (1903, Sup. Ct.) 41 Misc. 512, 85 N. Y. Supp. 23.

CONTRACTS—ENLISTMENT—SUIT BY A SOLDIER FOR PAY.—The plaintiff brought this action to recover pay for military service rendered by him. He enlisted in September, 1914, under an Act which stated that the enlistment was for one year or the duration of the war, the pay to be 6s. a day. He was later notified that a mistake had been made and that he was a "regular," whose pay was only 1s. a day and whose enlistment was for seven years with the colours and five years with the reserve. The plaintiff, threatening to bring habeas corpus proceedings, was discharged in January, 1920, and brought this action for breach of his contract. The defendant demurred. *Held,* that the plaintiff could not recover. *Leaman v. The King* (1920, K. B.) 36 T. L. R. 835.

The English courts consider enlistment as a contract which is terminable at the will of the Crown. 25 Halsbury, *Laws of England* (1913) sec. 90. This is so even if the soldier has been promised a position for life. *In re Tufnell* (1876) L. R. 3 Ch. 164. And the rule obtains even in the case of a civilian serving the Crown. *Dunn v. The Queen* [1896] 1 Q. B. 116. Cases involving pay have been subject to demurrer because the soldier has no contract with the Crown which can be enforced in a civil suit. *Mitchell v. The Queen* [1896] 1 Q. B. 121. The American current of authority on the particular point in question is directly opposed to the instant case. See 3 Cyc. 841. Enlistment has been held to be a valid contract except that the person enlisted has changed his status regarding certain defenses he may have had against the enforcement of an ordinary contract. *In re Grimly* (1890) 137 U. S. 147, 11 Sup. Ct. 54; *In re Morrissey* (1890) 137 U. S. 157, 11 Sup. Ct. 57. An action for pay was maintained even where the soldier was suspended during the time for which he sought compensation. *Conrad v. U. S.* (1897) 32 Ct. Cl. 139. The fact that a contract is terminable at the will of one party does not make it any the less binding on the other party. *Pilkington v. Scott* (1846) 15 M. & W. 655; see (1920) 29 YALE LAW JOURNAL, 115. A sovereignty is under no legal duty to fulfill its contracts unless the obligation results from a class of liabilities specifically assumed. The court's only duty is to declare the legal duty or privilege of the government. The distinction between the two opposing lines

of authority, then, must be found in the fact that the United States in establishing the Court of Claims and defining its jurisdiction has created for itself a wider range of liabilities than the Crown has in England.

CRIMINAL LAW—RECEIVING STOLEN GOODS—TEST OF GUILTY KNOWLEDGE.—In a prosecution for receiving stolen goods the defendant excepted to the following instruction: "By the term 'knowing' that the property was stolen is meant such knowledge as would put a reasonably prudent man, exercising ordinary caution, on his guard, and would cause such a man exercising such caution to believe that the property had been stolen." *Held,* that the instruction was erroneous, since the test should be, not that of a reasonably prudent man, but the state of mind of this particular defendant. *State v. Ebbeller* (1920, Mo.) 222 S. W. 396.

The test of the instant case represents the weight of authority. A few jurisdictions, however, hold that the defendant's belief that the goods received were not stolen goods must be reasonable. *State v. D'Adame* (1912) 82 N. J. L. 315, 82 Atl. 520; *People v. Zimmer* (1916) 174 App. Div. 470, 160 N. Y. Supp. 459. In many cases where one acts under a mistake of fact his belief must be reasonable to secure his immunity, as for example, in cases of unlawful homicide, criminal assault and battery, and bigamy. *Commonwealth v. Russogulo* (1919) 263 Pa. 93, 106 Atl. 180; *Lesueur v. State* (1911) 176 Ind. 448, 95 N. E. 239; *State v. Bryson* (1864) 60 N. C. 476; see *Paxton v. Boyer* (1873) 67 Ill. 132, 134. On the other hand, in a prosecution for larceny or robbery, the decision will be for the defendant if it appears that he took the goods under a bona fide mistake of fact whether reasonable or not. *Commonwealth v. Stebbins* (1857) 74 Mass. 492; *State v. Wasson* (1905) 126 Iowa, 320, 101 N. W. 1125. Although the cases do not show why this distinction exists, it is probably based on the difference in the relative values placed on life and property. The test of the instant case represents, perhaps, the better one; yet, if the jury should think the defendant's belief unreasonable, they would be quite likely to find that he believed them to be stolen and thereby would usually reach the same result as if the minority test had been applied.

DAMAGES—BANKS AND BANKING—LIABILITY OF BANK TO DEPOSITOR FOR THE WRONGFUL DISHONOR OF CHECKS.—The plaintiff mercantile firm brought this action against the defendant bank to recover damages on account of the bank's refusal to pay checks drawn by the plaintiff when sufficient funds had been deposited to cover the checks so drawn. On a previous appeal the court held that the law presumed substantial damage to a merchant or trader from the wrongful dishonor of his check, for which reasonable and temperate damages could be recovered. At the new trial the defendant produced evidence tending to show that the plaintiff's credit was not injured. *Held,* that such evidence was admissible only in mitigation of damages, as there was a "conclusive presumption" of substantial damages. *First National Bank of Forest City v. McFall & Co.* (1920, Ark.) 222 S. W. 40.

"Debtor and creditor" does not adequately express the relation between the bank and its depositor, for the bank is under a duty to honor its depositor's checks up to the amount of the deposit, for failure to perform which the depositor has a remedy in contract or in tort. See 5 L. R. A. (N. S.) 870, note. If the action is brought in contract, a recovery can be had for such damages only as are, according to the usual course of things, the natural consequences of the breach. Cf. *Hadley v. Baxendale* (1854) 9 Exch. 341; (1920) 29 YALE LAW JOURNAL, 354. But if the action is brought in tort, the wrongdoer must answer for all the proximate consequences of his wrongful act, whether natural or not. 1 Sedgwick, *Damages* (9th ed. 1912) 262. These statements of the rules usually are thought to result in a broader scale of recovery in actions of tort. But it may perhaps be